

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 3285 - HB 3887

March 3, 2010

SUMMARY OF BILL: Limits plea bargaining by a district attorney general with a defendant charged with driving under the influence of an intoxicant who has a prior conviction.

ESTIMATED FISCAL IMPACT:

On February 24, 2010, we issued a fiscal note for this bill indicating a *decrease to state revenue of \$9,500 and an increase to local revenue of \$79,500*. On March 2, we received additional information from the Department of Correction (DOC). Based on this new information, the fiscal impact for this bill is estimated as follows.

(CORRECTED)

Decrease State Revenue – \$9,500

Increase State Expenditures - \$171,900/Incarceration*

Increase Local Revenue – Net Impact – \$74,700

Assumptions:

- The Department of Safety (DOS) estimates that 100 DUI violations for second or subsequent violations are reduced to a lesser charge such as reckless driving each year.
- The average fine for reckless driving is \$125. Five percent is allocated to local county clerks; 95 percent is allocated to the state.
- Twenty percent of offenders will be indigent.
- The result will be a decrease to recurring state revenue of approximately \$9,500 [(100 reckless driving convictions x \$125 fine x 80% paid) – \$500 county clerk fee].
- Based on the estimate of 100 DUI violations for second or subsequent violations provided by DOS, DOC estimates that five percent (5) of the total would be fourth or subsequent violations and would result in additional Class E felony convictions.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in one additional offender in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on six offenders.
- According to the DOC, the average operating cost per offender per day for calendar year 2010 is \$59.86.

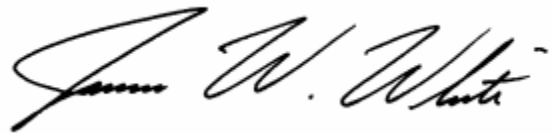
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- According to DOC, the average post-conviction time served for a Class E felony is 1.31 years (478.48 days). The cost per offender at 1.31 years is \$28,641.81 (\$59.86 x 478.48 days). The total additional operating cost for six offenders is \$171,850.86 (\$28,641.81 x 6).
- According to the DOS, the average fine for misdemeanor convictions of DUI is \$1,000 which is allocated to local government.
- Six offenders will be convicted of a fourth or subsequent offense resulting in felony charges; 94 will be convicted on misdemeanor charges.
- An increase to recurring local revenue of \$74,700 [(94 convictions x \$1,000 fine x 80% paid) minus the current \$500 county clerk fee].

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/jaw